

## ARTICLE 17-03

### DISCIPLINARY MATTERS

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#### CHAPTER 17-03-01 UNPROFESSIONAL CONDUCT

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**17-03-01-01. Unprofessional conduct.** The board may revoke, suspend, or deny a license to any person otherwise qualified or licensed by the board who is found to have committed unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

1. Exploitation of patients for financial gain, which includes:
  - a. Overutilization of chiropractic services or practices. Overutilization is defined as services or practices rendered or goods or appliances sold by a chiropractor to a patient for the financial gain of the chiropractor or a third party which are excessive in quality or quantity to the justified needs of the patient.
  - b. Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient.
  - c. Exercising undue influence on a patient or client, including the promotion or the sale of services, goods, or appliances in such a manner as to exploit the patient or client.
  - d. The administration of treatment or the use of diagnostic procedures which are clearly excessive as determined by the customary practices and standards of the local community of licensees.
2. Willfully harassing, abusing, or intimidating a patient, either physically or verbally.
3. Failing to maintain a patient record and a billing record for each patient which accurately reflect the evaluation or treatment of the patient and the bills charged to the patient. Unless otherwise provided, all patient records must be retained for at least six years.

4. The willful or grossly negligent failure to comply with the substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of the profession.
5. Any conduct which has endangered or is likely to endanger the health, welfare, or safety of the public including habitual intemperance, illegal use of controlled substances, or conducting unauthorized experiments or tests upon patients.
6. Conviction of a crime which is substantially related to the qualifications, functions, or duties of a chiropractor.
7. Conviction of a felony or any offense involving moral turpitude, dishonesty, or corruption.
8. Violation of any of the provisions of law regulating the dispensing or administration of narcotics, dangerous drugs, or controlled substances.
9. The commission of any act involving moral turpitude or dishonesty, whether the act is committed in the course of the individual's activities as a licenseholder or otherwise.
10. Knowingly making or signing any false certificate or other document relating to the practice of chiropractic care which falsely represents the existence or nonexistence of a state of facts.
11. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violations of, or conspiring to violate any provision of the law or the rules adopted by the board.
12. Making or giving any false statement or information in connection with the application for issuance of a license.
13. Participation in any act of fraud or misrepresentation.
14. Except as required by law, the unauthorized disclosure of any information about a patient revealed or discovered during the course of examination or treatment.
15. The employment or use of persons known as cappers or steerers to obtain business.
16. The offering, delivering, receiving, or accepting of any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration as compensation or inducement for referring patients to any person.
17. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which a licensee

knows or has reason to know that the licensee is not competent to perform, or performing without adequate supervision professional services which a licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger.

18. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, by experience, or by licensure, to perform them.
19. Advertising or soliciting for patronage that is not in the public interest, which includes:
  - a. Advertising or soliciting which is false, fraudulent, deceptive, or misleading.
  - b. Advertising or soliciting which guarantees any service or result.
  - c. Advertising or soliciting which makes any claim relating to professional services or products or the cost or price thereof which cannot be substantiated by the licensee.
  - d. Advertising or soliciting which make claims of professional superiority which cannot be substantiated by the licensee.
  - e. Advertising or soliciting which is based upon a claim that the chiropractor uses a secret or special method of treatment and the chiropractor refuses to divulge the secret or special method of treatment to the board.
  - f. Advertising no out-of-pocket expenses or practicing same.
  - g. Advertising free examination or service.
20. Violation of any term of suspension or probation imposed by the board.

**History:** Effective February 1, 1990; amended effective April 1, 2001.

**General Authority:** NDCC 43-06-04.1, 43-06-15

**Law Implemented:** NDCC 43-06-15

#### **17-03-01-02. Telemarketing.**

1. Chiropractors who use telemarketing, either personally or through a professional company, are responsible for any representations made or statements given.
2. All telemarketing must comply with the rules pertaining to advertising adopted by the board.

3. Chiropractors who use telemarketing are required to keep records regarding the telemarketing for a period of two years. The records must include the script used, the name of the individual or company conducting the telemarketing, and the dates the telemarketing was conducted.
4. Chiropractors must make available to the board a copy of their telemarketing records upon the board's request.

**History:** Effective May 1, 1993.

**General Authority:** NDCC 28-32-02, 43-06-04.1

**Law Implemented:** NDCC 43-06-04.1, 43-06-15

**17-03-01-03. Use of special purposes examination for chiropractic for disciplinary purposes.** The board may require any person who is found to have committed unprofessional conduct to take the special purposes examination for chiropractic. Passing the special purposes examination for chiropractic may be made a requirement for continued licensure or to unencumber a suspended license.

**History:** Effective May 1, 1993.

**General Authority:** NDCC 28-32-02, 43-06-04.1

**Law Implemented:** NDCC 43-06-15

**17-03-01-04. Code of ethics.** The board adopts the 1999 edition of the American chiropractic association code of ethics as the code of ethical conduct governing the practice of chiropractic in the state of North Dakota.

**History:** Effective April 1, 2001.

**General Authority:** NDCC 43-06-04.1

**Law Implemented:** NDCC 43-06-04.1